

RANDY S. CANNON,

Plaintiff,

V.

AUTO-OWNERS INSURANCE CO.

and

SEVIER COUNTY ELECTRIC SYS.,

Defendants.

CASE NO.:

JURY DEMAND REQUESTED

AUTO-OWNERS INSURANCE CO.,

**Petitioner/Counter-, Cross- and
Third-Party Plaintiff,**

V.

RANDY S. CANNON,

Respondent/Counter-Defendant,

and

SEVIER COUNTY ELECTRIC SYS.,

Respondent/Cross-Defendant,

and

LIMITED PROPERTIES, INC.,

Respondent/Third-Party Defendant.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Third-Party Defendant, Limited Properties, Inc. (hereinafter, “Limited Properties” or “Third-Party Defendant”), by and through undersigned counsel, LAW OFFICE OF JAMES W. FRIAUF, PLLC, hereby removes this action from the Circuit Court for Sevier County, Tennessee to the United States District Court for the Eastern District of Tennessee, Knoxville Division.

Removal is based upon diversity jurisdiction because the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and is between citizens of different states. In support of this Notice, Third-Party Defendant avers as follows:

I. Background

1. This case was originally filed by Respondent/Counter-Defendant Randy S. Cannon (“Mr. Cannon”) as a breach of contract action against Petitioner, Counter-, Cross-, and Third-Party Plaintiff Auto-Owners Insurance Company (“Auto-Owners”) and as a negligence and breach of contract action against Respondent/Cross-Defendant Sevier County Electric System (“SCES”) in the Circuit Court for Sevier County, Tennessee on or about July 17, 2014.
2. On or about December 17, 2014, Auto-Owners filed a Third-Party Claim against Limited Properties.
3. In accordance with 28 U.S.C. 1446(a), a copy of all process, pleadings, and orders received by Limited Properties are attached hereto as **Exhibit “1”**.

II. This Notice of Removal is Timely Filed

4. This lawsuit is a civil action within the meaning of the Act of Congress relating to removal of causes.
5. Limited Properties was served with the Summons in this action on or about March 26, 2015.
6. The removal of this action to this Court is timely pursuant to 28 U.S.C. § 1446(b) because this Notice of Removal is filed within thirty (30) days after March 26, 2015.
7. The United States District Court for the Eastern District of Tennessee is the proper court in which to file this Notice of Removal pursuant to 28 U.S.C. § 1441(a) because it is the federal district court that embraces the jurisdiction where the original action was filed and is pending.

III. This Court Has Diversity Jurisdiction

8. The Third-Party Complaint alleges that, “Auto-Owners . . . is a foreign insurance company authorized to write various types of personal, property and casualty insurance, including homeowners’ insurance policies, in the State of Tennessee.” **(Third-Party Complaint at ¶ 1).**
9. The Third-Party Complaint further alleges that, “respondent/counter-defendant, Randy Cannon, is a citizen and resident of the State of South Carolina.” **(Third-Party Complaint at ¶ 2).**
10. The Third-Party Complaint further alleges that, “Sevier County Electric System . . . is a political subdivision of Sevier County, Tennessee.” **(Third-Party Complaint at ¶ 3).**
11. The Third-Party Complaint further alleges that, “respondent/third-party defendant, Limited Properties, Inc., is a foreign corporation with its principal place of business in South

Carolina.” (**Third Party Complaint at ¶ 4**).

12. Accordingly, diversity jurisdiction exists on the face of the Third-Party Complaint in this action pursuant to 28 U.S.C. § 1332 because the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and because the action is between citizens of different states.
13. Because there is complete diversity between the parties to this action, removal is proper pursuant to 28 U.S.C. § 1441(b).

IV. Notice of Removal to the Circuit Court for Sevier County, Tennessee

14. Concurrently with this Notice of Removal, Limited Properties will file a copy of this Notice with the Circuit Court for Sevier County, Tennessee. A copy of the written notice of the Notice of Removal to be filed with the Circuit Court is attached hereto as **Exhibit “2”**. In accordance with 28 U.S.C. § 1446(d), Limited Properties will give written notice to all parties to this action by contemporaneously serving this Notice of Removal on the same.
15. If any question arises as to the propriety of the removal of this action, Limited Properties respectfully requests the opportunity to present a brief and oral argument in support of its position that this case is removable.

V. Conclusion

For all the foregoing reasons, Limited Properties respectfully requests that this civil action be, and hereby is, removed to the United States District Court for the Eastern District of Tennessee, Knoxville Division, that this Court assume jurisdiction over this civil action, and that this Court enter such other and further orders as may be necessary to accomplish the requested removal and promote the ends of justice.

Respectfully submitted this 18th day of April, 2015.

Law Office of
JAMES W. FRIAUF, PLLC

/s/ James Friauf
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Attorney for Limited Properties, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on the following counsel of record via electronic mail this 18th day of April, 2015.

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